

Deficiency Progress Report – Update 3

Report Submitted: February 8, 2010

CUPA: Madera County Environmental Health

Evaluation Date: April 22 and 23, 2009

Evaluation Team:

Kareem Taylor, Cal/EPA
Jeff Tkach, CalEMA
Terry Snyder, SWRCB

Corrected Deficiencies: 1, 2

Next Progress Report (Update 4) Due: June 14, 2010

[Please update the deficiencies below that remain outstanding.](#)

- 1. Deficiency:** The CUPA failed to exercise a graduated series of enforcement actions on hazardous materials business plan (HMBP) facilities that did not submit business plans and/or annual inventories. The CUPA has implemented informal enforcement (reminder letters and phone calls) on many of these facilities multiple times; however, many facilities remain nonresponsive.

Preliminary Corrective Actions: By October 23, 2009, the CUPA will implement formal enforcement on those facilities that have been nonresponsive to previous requests for business plans and/or annual inventory submittals.

CUPA's 1st Update (8-5-09): The CUPA has been tracking annual submission of business plan information using our Envision database. Queries have been developed to determine who has not submitted annually and approximately 40 reminder notices were mailed in May requiring submission in order avoid further enforcement. Most facilities complied; some facilities were found to have been closed or have changed ownership. Notices of Violation have been sent via certified mail to four facilities. The CUPA staff has begun reviewing documentation in the facility files for those who have not complied to determine which facilities will be subject to administrative enforcement orders. We plan to initiate AEO activity on selected facilities by October 23, 2009.

The CUPA will continue to use our Envision violation tracking system to identify facilities who have failed to submit business plan information after being directed to do so.

[Cal/EPA's 1st Response:](#) Cal/EPA appreciates the CUPA's progress towards correcting this deficiency. Along with the next progress report, please report the

disposition of the noncompliant facilities and what enforcement actions the CUPA implemented against the recalcitrant facilities.

CUPA's 2nd Update (11-3-09): The CUPA has identified three facilities that have been given adequate notice to comply with annual Hazardous Materials Business Plan submission and have failed to do so. The CUPA has drafted an AEO for two of those facilities. That AEO is expected to be finalized and issued within a week.

In previous years, the CUPA had attached a small note to the annual certification statement that it sent with the annual billing. However, that small note was not added to the 2009 annual billing. We are now preparing for annual billing. The CUPA will return to the practice of adding a note in the annual billing and notify all HMBP facilities that they must submit either a no change certification statement or an HMBP update or they will be fined.

Cal/EPA's 2nd Response: CUPA is making progress towards correcting this deficiency. Along with the next progress report or sooner, please report the enforcement disposition of the 3 noncompliant facilities.

CUPA's 3rd Update (2-8-10): The CUPA issued 3 AEOs to the owners of the noncompliant facilities, the facilities have achieved compliance and the penalties were collected. Additionally, the CUPA recently issued NOVs to 53 facilities who failed to report in 2009. Many of those facilities have responded by submitting annual updates. The CUPA will issue AEOs for any of those who fail to submit by March 1, 2010.

The CUPA included the 2010 Annual Certification Statement along with the annual invoice sent to all regulated businesses. Attached to the Certification Statement was a reminder to submit the Statement or an update annually, or be subject to fines.

Cal/EPA's 3rd Response: Cal/EPA is pleased with progress the CUPA has made with its enforcement program. It appears that most business plan facilities are responding positively to the changes made to ensure compliance. Cal/EPA considers this deficiency corrected.

2. Deficiency: The CUPA does not have financial management procedures that includes the following:

- A single fee system in compliance with Title 27, section 15210;
- A fee accountability program in compliance with Title 27, section 15220; and
- A surcharge collection and reimbursement program in compliance with Title 27, section 15250.

Preliminary Corrective Actions: By July 23, 2009, the CUPA will complete its financial management procedures that are in compliance with Title 27, section 15180 (e)(5).

The CUPA will submit a copy to Cal/EPA along with its first progress report.

CUPA's 1st Update: The CUPA has updated our financial management procedures to include a single fee system, fee accountability program, and surcharge collection and reimbursement program in compliance with Title 27, sections 15210, 15220, and 15250, respectively. A copy of the Madera County Financial Management Procedures is attached. An additional copy has been placed in the Madera County CUPA Policies and Procedures binder.

Cal/EPA's 1st Response: After reviewing the CUPA's completed financial management procedures, Cal/EPA considers this deficiency corrected.

3. **Deficiency:** The CUPA's UST facility files reviewed did not contain plot plans, or plot plans did not have all the required information, or they were not current.

Preliminary Corrective Actions: The CUPA will review UST files for the required plot plans and will request plot plans to be submitted or updated during the annual inspections from the UST owner/operators as necessary.

By April 23, 2010, all UST facility files will contain plot plans. Also the CUPA will update its files with the new UST Forms A (Facility Information), B (Tank Information), D (Monitoring) and E (Response). The new forms require additional information that was not on the previous forms. This was part of the new Title 27 regulations adopted last year.

CUPA's 1st Update (8-5-09): The CUPA has reviewed all UST facility files and determined that approximately 80% of the files do not contain an adequate plot plan. From the time of the evaluation, as each facility receives its annual inspection, CUPA staff has required that a plot plan be included in the file. It is often necessary for CUPA staff to assist the facility owner with the completion of the plot plan. A master map legend has been developed, printed onto a sticker and used as the standard for all plot plans. Additionally, inclusion of updated UPCF UST forms into the facility file is being done during the annual inspection. The CUPA expects all UST facility files to contain updated forms and plot plans by April 23, 2010.

Cal/EPA's 1st Response: Please refer to SWRCB's response.

- **SWRCB's Response:** The State Water Board appreciates the CUPA's efforts to complete their facility files with all the required information and checking out what is required in plot plans. Based on communication with the CUPA, the SWRCB feels that this deficiency will be corrected before

the date specified in the Summary of Findings. Please provide status on updating the UST files with your next progress report.

CUPA's 2nd Update (11-3-09): The CUPA has continued to ensure that a current plot plan as well as updated UPCF forms is included in the facility file as each facility has its annual inspection. The task of completing an accurate plot plan is usually completed by the inspector, but approved by the owner/operator. To date we have updated approximately 31 of 78 facilities. We are on track to have all facility files updated by April 23, 2010.

Cal/EPA's 2nd Response: Please refer to SWRCB's response.

- **SWRCB's Response:** The State Water Board appreciates the CUPA's efforts to complete their facility files with all the required information. Based on communication with the CUPA, the SWRCB feels that this deficiency will be corrected before the date specified in the Summary of Findings. Please provide status on updating the UST files with your next progress report.

CUPA's 3rd Update (2-8-10): The CUPA has continued to ensure that a current plot plan as well as updated UPCF forms is included in the facility file as each facility has its annual inspection. The task of completing an accurate plot plan is often completed by the inspector, but approved by the owner/operator. To date we have updated 55 of 78 facilities. We are approximately $\frac{3}{4}$ of the way through the reporting year after the evaluation and have nearly 75% of our facility maps and UPCF forms updated. The CUPA is still on track to have all facility files updated by April 23, 2010.

Cal/EPA's 3rd Response: This deficiency may have been corrected by the 4-23-10 timeframe. Please confirm by email that the CUPA's UST facility files contain plot plans and updated forms. Please refer to SWRCB's response.

- **SWRCB's Response:** The State Water Board appreciates the CUPA's efforts to complete their facility files with all the required information. Based on communication with the CUPA, the SWRCB feels that this deficiency will be corrected before the date specified in the Summary of Findings. Please provide status on updating the UST files with your next progress report.